

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Ward *et al.*

Appl. No.: TBA

Filed: Concurrently Herewith

For: HERBICIDE-TOLERANT PROTOX
GENES PRODUCED BY DNA
SHUFFLING

Art Unit: TBA

Examiner: TBA

Atty Docket: PB/5-20757G

PRELIMINARY AMENDMENT

Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants respectfully request that the above-captioned application be amended as follows in advance of prosecution.

IN THE SPECIFICATION

At page 1, line 3, between "This application is" and "a continuation-in-part" please insert the following: -- a division of U.S. Application No. 09/102,419, filed June 22, 1998, which is --.

At page 1, line 5, immediately after "U.S. Application No. 09/050,603, filed March 30, 1998," please insert the following: -- now U.S. Patent No. 6,023,012, issued February 8, 2000, --.

At page 1, line 6, immediately after "U.S. Application No. 08/808,931, filed February 28, 1997," please insert the following: -- now U.S. patent 5,939,602, issued August 17, 1999, --.

At page 1, line 12, immediately after "09/059,164" please replace "is also a continuation-in-part of U.S. Application No. 09/038,878" with the following: -- also claims the benefit of U.S. Provisional Application No. 60/126,430 --.

Please replace the initial paper copy of the Sequence Listing (pages 128-179) with the attached substitute paper copy of the Sequence Listing (page 128-187). Please renumber the claim pages and abstract page accordingly.

IN THE CLAIMS

Please cancel claims 1-4, 14, 24, and 26-27 without prejudice or disclaimer.

REMARKS

The continuing data has been amended to indicate that the instant application is a division of U.S. Application No. 09/102,419, as well as to update the status of several other parent applications.

In the instant application's immediate parent (Application No. 09/102,419), the Office indicated in a "Notice to Comply" dated August 26, 1998, that the originally filed sequence listing failed to comply with the requirements of 37 C.F.R. § 1.821 through 1.825. Therefore, in parent application no. 09/102,419, Applicants were required to provide a substitute computer readable form (CRF) copy of the Sequence Listing; a substitute paper copy of the Sequence Listing, as well as an amendment directing its entry into the specification; and a statement that the content of the paper and computer readable copies were the same and included no new matter.

Specifically, in parent application no. 09/102,419, the "Notice to Comply" indicated that the Title of the Invention on the first page of the Sequence Listing needed a hard page return so that all text would fit onto a printed page. This correction was made in a substitute Sequence Listing submitted in parent application no. 09/102,419 on September 24, 1998. Also, the "Notice to Comply" indicated that information for SEQ ID NO:1 was incorrect. Specifically, mandatory headings were missing. This information was inserted above SEQ ID NO:1 in the substitute

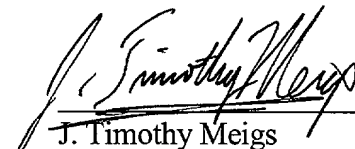
Sequence Listing. No new matter was added, as the inserted heading information was taken *verbatim* from the Sequence Listing of parent application no. 09/050,603, which was incorporated by reference into the specification. (*See*, continuing information on page 1 of the specification.)

A paper copy of the substitute Sequence Listing submitted on Sept. 24, 1998, in parent application no. 09/102,419 is appended hereto, and an amendment directing its entry into the specification is set forth above. Pursuant to 37 C.F.R. § 1.825, Applicants' attorney hereby certifies that the contents of the substitute paper copy of the Sequence Listing submitted herewith and the contents of the substitute computer readable form (CRF) copy of the Sequence Listing submitted on Sept. 24, 1998, in parent application no. 09/102,419 are the same. Accordingly, please use the CRF Sequence Listing submitted on Sept. 24, 1998 in parent application no. 09/102,419 for purposes of examination of the instant divisional application.

Claims 1-4, 14, 24, and 26-27 have been cancelled. Claims 5-13, 15-23 and 25 are now pending in the instant application.

No new matter has been added. Accordingly, entry of the above amendments is respectfully requested. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call Applicants' undersigned attorney.

Respectfully submitted,



J. Timothy Meigs
Attorney for Applicants
Registration No. 38,241

Syngenta
P. O. Box 12257
Research Triangle Park, NC 27709-2257
Telephone: 919-541-8587

December 5, 2000